IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

M.F.A.No.801 of 2002(B)

I.C.NO.24/1999 OF THE EMPLOYEES INSURANCE COURT, KOLLAM.

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APPELLANTS: OPPOSITE PARTIES:-

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1. THE REGIONAL DIRECTOR, ESI CORPORATION, TRICHUR.

2. THE DEPUTY DIRECTOR, ESI CORPORATION, TRICHUR.

3. THE RECOVERY OFFICER, ESI CORPORATION, TRICHUR.

4. THE INSURANCE INSPECTOR,
   INSPECTION OFFICE, KAYAMKULAM.

5. THE RECOVERY OFFICER,
   LOCAL OFFICE, PAIKKADA ROAD, CHINNAKKADA, KOLLAM

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENT: APPLICANT:-

SRI.THYAGARAJAN, KRISHNAVENIYIL,
KALLELIBHAGAM, KARUNAGAPPALLY, KOLLAM

BY ADV. SRI.K.HARILAL

THIS MISCELLANEOUS FIRST APPEAL HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Padmanabhan Nair,J.

M.F.A.No.801 of 2002-B

Dated, this the 21st day of March, 2007

JUDGMENT

Initially the establishment of the respondent, which was a toddy shop, was covered under the provisions of the Employees' State Insurance Act. Subsequently, on account of the action taken by the Excise and Revenue Departments, the area under operation of the toddy shop was divided into three and three separate shops were established. Consequent to the separation, the number of the employees in the establishment of the respondent were reduced than the statutory minimum. Still, the Corporation took up a stand that the establishment continues to be one covered under the Act on account of Section 1(6) of the Act. In **E.S.I. Corporation** v. **Muraleedharan** [2003 (2) KLT SN 70 (Case No.92)], the question was answered against the Corporation. It was held that if the status of the establishment is altered through statutory intervention, Section 1(6) can have no application. The facts of the case in hand are identical to **Muraleedharan's case** (supra). So, the appeal has to fail.

In the result, the appeal is dismissed.

K.Padmanabhan Nair
Judge

vku/-